UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.19
5 May 1993

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

URUGUAY

1. The Committee considered the third periodic report of Uruguay (CCPR/C/64/Add.4) at its 1216th to 1218th meetings held on 29 and 30 March 1993 and adopted 1/ the following comments.

A. Introduction

2. The Committee welcomes the third periodic report of Uruguay covering the important changes which have taken place in that country since 1989. The Committee takes note of the useful information contained in the report concerning recent legislative changes and appreciates, in particular, that the report in general takes into account comments made by the Committee during the consideration of the State party's second periodic report. There was, however, no information in the report on several articles of the Covenant or on implication for the Covenant of the Law of Expiry of the Punitive Powers of the State (Ley de Caducidad de la Pretensión Punitiva del Estado), which is a matter of particular concern to the Committee. The report should also have included more information on the factors and difficulties encountered in the actual application of the Covenant and on the follow-up to the views adopted by the Committee on individual complaints under the Optional Protocol.

1/ At its 1232nd meeting (forty-seventh session), held on 8 April 1993.

3. The Committee expresses its appreciation to the State party for having sent a high-level representative who introduced the report and responded to the many questions raised by members of the Committee. The valuable additional information provided by the State party's representative and his competence in matters concerning the Covenant facilitated an open, frank and fruitful dialogue between the Committee and the State party.

B. Positive aspects

4. The Committee welcomes the restoration of democracy in Uruguay and the efforts to restore respect for human rights made by the two administrations that have governed the country since the return of civilian rule. The Committee notes with satisfaction the notable progress achieved during the period under examination in bringing domestic law into line with the provisions of the Covenant. Considerable progress has been achieved with the enactment of new laws and codes and with the strengthening of democratic institutions and processes aimed at promoting and protecting human rights. Notable among these legislative achievements is the passage of the new Press Bill (Act No. 16,099 of 24 October 1989) containing guarantees for freedom of expression. The creation of a new organ (Fiscalía Nacional de la Policía) to investigate human rights abuses committed by the police is another welcome development.

5. The Committee also welcomes the holding of the first national course in Uruguay on the implementation of human rights instruments and the recent adherence by Uruguay to the Second Optional Protocol on the abolition of the death penalty.

C. Factors and difficulties impeding the application of the Covenant

6. The Committee notes that the civilian Governments have had to overcome the authoritarian legacy of the military regime, while dealing, at the same time, with deeply rooted social and economic problems.

D. Principal subjects of concern

7. The Committee expresses once again its deep concern on the implications for the Covenant of the Expiry Law. In this regard, the Committee emphasizes the obligation of States parties, under article 2 (3) of the Covenant, to ensure that all persons whose rights or freedoms have been violated shall have an effective remedy as provided through recourse to the competent judicial, administrative, legislative or other authority. The Committee notes with deep concern that the adoption of the Law effectively excludes in a number of cases the possibility of investigation into past human rights abuses and thereby prevents the State party from discharging its responsibility to provide effective remedies to the victims of those abuses. The Committee is particularly concerned that the adoption of the Law has impeded follow-up on its views on communications. Additionally, the Committee is particularly concerned that, in adopting the Law, the State party has contributed to an atmosphere of impunity which may undermine the democratic order and give rise to further grave human rights violations. This is especially distressing given the serious nature of the human rights abuses in question.

8. The Committee expresses its concern over the Constitutional provisions relating to the declaration of a state of emergency. In particular, the Committee notes that the grounds for declaring an emergency are too broad and that the range of rights which may be derogated from does not conform to article 4 of the Covenant. Additionally, there is no mention in the relevant provision of the Constitution of non-derogable rights.

9. The Committee notes with concern that the regulations relating to pre-trial detention are not in conformity with article 9 of the Covenant. In this regard, the Committee underlines that, in accordance with the principle of the presumption of innocence, release should be the rule and not the exception as is the case under the current system. The Committee also notes with concern that, while there is no systematic use of torture, there are occurrences of serious maltreatment of detainees. Such occurrences indicate a lack of proper training of prison and law enforcement officials and an inadequate understanding of international standards concerning the treatment of detainees.

10. Although the new Press Law (Act No. 16,099) is in general a positive achievement, the Committee is concerned that it still includes provisions that might impede the full exercise of the freedom of expression. Foremost among these are certain provisions relating to offences committed by the press or other media, in particular articles 19 and 26 of the law.

E. Suggestions and recommendations

11. The Committee emphasizes the obligation of the State party under article 2 (3) of the Covenant to ensure that victims of past human rights violations have an effective remedy. In order to discharge that obligation under the Covenant, the Committee recommends that the State party adopt a legislation to correct the effects of the Expiry Law.

12. The Committee recommends that the State party continue in its efforts to harmonize domestic laws with the provisions of the Covenant. In particular, procedures for dealing with remedies should be reviewed. The Committee also recommends the establishment of an impartial and independent authority to monitor the application of human rights standards and to receive complaints of abuses. Greater publicity should be given to the Covenant and the Optional Protocol to ensure that the provisions of these instruments are widely known to members of the legal profession, the judiciary and law enforcement officials, as well as to the general public. Adequate follow-up should also be ensured with respect to the views adopted by the Committee on individual cases considered under the Optional Protocol.

13. The Committee suggests that detention procedures should be revised with a view to facilitating a full application of the rights provided for under the Covenant. In particular, the penal procedure should be reformed so that it is based on the principle of the presumption of innocence. The State party should ensure that adequate remedies are available with regard to habeas corpus under article 9 of the Covenant. There should be significantly less reliance on the use of pre-trial detention, particularly in view of the fact that some abuses in detention have occurred. Legislation and procedures

concerning the use of firearms by police should be reviewed and additional training in human rights norms should be provided for police and other law enforcement officials.

14. The Committee suggests that special measures should be taken to protect minorities as provided for under article 27 of the Covenant.

15. With respect to freedom of expression, there should be greater freedom to seek information, as provided for under article 19 (3) of the Covenant. Additionally, the sanctions provided for under chapter IV of the Press Law are too wide and might hinder the full enjoyment of article 19 of the Covenant. In this regard, the law is not adequate.

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